



January 2, 2002

Mr. Brett Bray
Director, Motor Vehicle Division
Texas Department of Transportation
P.O. Box 2293
Austin, Texas 78768

OR2002-0017

Dear Mr. Bray:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156748.

The Texas Department of Transportation (the "department") received a request for the bond information for Ferro Industries, Inc., dba Marc Schooley Motor Company, and Earl Williams, dba A-1 Used Cars. You do not contend that the requested bond information is excepted from disclosure under chapter 552 of the Government Code, but rather request an open records decision only because this office had previously determined that such information is excepted from public disclosure pursuant to section 552.101 of the Government Code. *See* Open Records Letter No. 2001-4160 (2001).

However, this office subsequently overruled Open Records Letter No. 2001-4160, and concluded that "[t]hough the surety bonds and surety bond riders at issue consist of personal financial information, we believe that there is a legitimate public interest in their disclosure. Thus, the department must release the responsive surety bond and surety bond riders." Open Records Letter No. 2001-4160A at 2 (2001). Because you have not raised any exception to disclosure, the department must release the surety bond information at issue here to the current requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/sdk

Ref: ID# 156749

Enc: Submitted documents

c: Mr. Michael D. Carroll
Hays, McConn, Rice & Pickering
400 Two Allen Center
1200 Smith Street
Houston, Texas 77002
(w/o enclosures)

Ferro Industries, Inc.
Dba Marc Schooley Motor Co.
906 Spencer Highway
Houston, Texas 77587
(w/o enclosures)

Mr. Earl Williams
Dba A-1 Used Cars
1311 North Alexander
Baytown, Texas 77520
(w/o enclosures)